

**Assembly Bill No. 683**

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Passed the Assembly    July 17, 1997

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*Chief Clerk of the Assembly*

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Passed the Senate    July 11, 1997

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1997, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_

An act to amend Sections 20142, 20395, 20455, and 21551 of the Public Contract Code, relating to public works contracts.

## LEGISLATIVE COUNSEL'S DIGEST

AB 683, Morrow. Public works contracts: change orders.

Existing law sets forth the procedures pursuant to which changes or additions may be made in the work being performed under local construction contracts, county highway contracts, local contracts for works of improvement, and drainage district construction contracts. Under these provisions, for contracts whose original cost exceeds \$250,000, the extra cost for any change or addition to the work so ordered may not exceed \$25,000 plus 1% of the amount of the original contract cost in excess of \$250,000, and in no event may any such change or alteration exceed \$100,000.

This bill would, instead, specify that, for those contracts, the extra cost for any change or addition to the work so ordered may not exceed \$25,000 plus 5% of the amount of the original contract cost in excess of \$250,000, and in no event may any such change or alteration exceed \$150,000.

This bill would additionally incorporate amendments to Section 20395 of the Public Contract Code proposed by both this bill and AB 464, which would only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 20395 of the Public Contract Code, and (3) this bill is enacted after AB 464.

*The people of the State of California do enact as follows:*

SECTION 1. Section 20142 of the Public Contract Code is amended to read:



20142. (a) The board of supervisors may, by ordinance, resolution, or board order, authorize the county engineer, or other county officer, to order changes or additions in the work being performed under construction contracts. When so authorized, any change or addition in the work shall be ordered in writing by the county engineer, or other designated officer, and the extra cost to the county for any change or addition to the work so ordered shall not exceed five thousand dollars (\$5,000) when the total amount of the original contract does not exceed fifty thousand dollars (\$50,000), nor 10 percent of the amount of any original contract that exceeds fifty thousand dollars (\$50,000), but does not exceed two hundred fifty thousand dollars (\$250,000).

(b) For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract cost in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any such change or alteration exceed one hundred fifty thousand dollars (\$150,000).

SEC. 2. Section 20395 of the Public Contract Code is amended to read:

20395. In any county that has appointed a road commissioner pursuant to Section 2006 of the Streets and Highways Code, the board may authorize the road commissioner to have any work upon county highways done under his or her supervision and direction. The work may be done in any of the following ways:

(a) By letting a contract covering both work and material. In that event, the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the performance of the work. In that event, the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder as provided in this article.



(c) By purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

(d) (1) By authorizing the county road commissioner to execute changes for any such contract in an amount not to exceed five thousand dollars (\$5,000) for contracts of fifty thousand dollars (\$50,000) or less, or 10 percent for contracts over fifty thousand dollars (\$50,000) but not to exceed two hundred fifty thousand dollars (\$250,000). In no event shall any such change exceed a net total addition of twenty-five thousand dollars (\$25,000).

(2) For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any such change or alteration exceed one hundred fifty thousand dollars (\$150,000).

(e) By purchasing the material and letting a contract for the work or by letting a contract covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars (\$25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

SEC. 2.5. Section 20395 of the Public Contract Code is amended to read:

20395. In any county that has appointed a road commissioner pursuant to Section 2006 of the Streets and Highways Code, or in any county that has abolished the office of road commissioner and complied with Section 2006.1 of the Streets and Highways Code, the board may authorize the road commissioner, or a registered civil engineer under the direction of the county director of transportation, to have any work upon county highways done under his or her supervision and direction. The work may be done in any of the following ways:



(a) By letting a contract covering both work and material. In that event, the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the performance of the work. In that event, the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder as provided in this article.

(c) By purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

(d) (1) By authorizing the county road commissioner or a registered civil engineer under the direction of the county director of transportation to execute changes for any contract pursuant to this section in an amount not to exceed five thousand dollars (\$5,000) for contracts of fifty thousand dollars (\$50,000) or less, or 10 percent for contracts over fifty thousand dollars (\$50,000) but not to exceed two hundred fifty thousand dollars (\$250,000). In no event shall any change exceed a net total addition of twenty-five thousand dollars (\$25,000).

(2) For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any change or alteration exceed one hundred fifty thousand dollars (\$150,000).

(e) By purchasing the material and letting a contract for the work or by letting a contract covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars (\$25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

SEC. 3. Section 20455 of the Public Contract Code is amended to read:



20455. (a) After construction has begun, the legislative body, or the superintendent of streets if authorized by the legislative body, may order changes in the work without the necessity of a hearing. The order shall be in writing, and the amount of any change ordered shall not exceed five thousand dollars (\$5,000) when the total amount of the original contract does not exceed fifty thousand dollars (\$50,000), nor 10 percent of the amount of any original contract that exceeds fifty thousand dollars (\$50,000), but does not exceed two hundred fifty thousand dollars (\$250,000).

(b) For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any such change or alteration exceed one hundred fifty thousand dollars (\$150,000).

(c) The limitations on the cost of changes permitted by this section shall not apply where (1) the change is requested in writing by the owner of property subject to assessment for the improvement under construction and the nature of the change requested is such that the cost thereof will be assessed exclusively against the property of the person requesting the change, or (2) the change in the work will not adversely affect the benefiting property and any increase in the cost resulting from the changes will be paid by the city and will not be assessed against the property within the assessment district.

SEC. 4. Section 21551 of the Public Contract Code is amended to read:

21551. (a) All contracts for the construction of any unit of work estimated to cost over ten thousand dollars (\$10,000) shall be let to the lowest responsible bidder in accordance with Article 3.5 (commencing with Section 20120) of Chapter 1.5. If cost of the project or service will not exceed ten thousand dollars (\$10,000), the district may have the work done by force account. The district may purchase in the open market, without advertising for



bid, materials and supplies for use in any work either under contract or by force account.

(b) The board of directors may, by ordinance, resolution, or board order, authorize the county engineer or other county officer to order changes or additions in work being performed under construction contract. When so authorized, any change or addition in the work shall be ordered in writing by the county engineer, or other designated officer, and the extra cost for any change or addition to the work so ordered shall not exceed five thousand dollars (\$5,000) when the total amount of the original contract does not exceed fifty thousand dollars (\$50,000), nor 10 percent of the amount of any original contract that exceeds fifty thousand dollars (\$50,000), but does not exceed two hundred fifty thousand dollars (\$250,000).

(c) For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any such change or alteration exceed one hundred fifty thousand dollars (\$150,000).

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 20395 of the Public Contract Code proposed by both this bill and AB 464. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 20395 of the Public Contract Code, and (3) this bill is enacted after AB 464, in which case Section 2 of this bill shall not become operative.



Approved \_\_\_\_\_, 1997

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*Governor*

